

In The United States District Court For Southern District of New York

Annamarie Trombetta,

Plaintiff,

vs.

Civil Action No. 18-cv-0993-RA-HBP

Norb Novocin, Marie Novocin,
Estate Auctions Inc.

and

WorthPoint Corporation

Defendants

**PLAINTIFF'S " CORRECTED " RULE 56.1 STATEMENT OF UNDISPUTED
MATERIAL FACTS IN SUPPORT OF PLAINTIFF, ARTIST ANNAMARIE
TROMBETTA 'S MOTION FOR SUMMARY JUDGMENT**

PRELIMINARY STATEMENT OF PLAINTIFF’S “ CORRECTED “
RULE 56.1 STATEMENTS OF FACTS

It has been brought to Plaintiff’s attention by WorthPoint, that Plaintiff Rule 56.1 Statements of Facts , the Rule 56.1 document, was not the intended copy Plaintiff assumed I filed. In reviewing WorthPoint’s Responses which states : *This fact is vague, ambiguous and not clearly stated.* Plaintiff checked my email attachment sent to the Pro Se Office on April 17, 2023. Plaintiff inadvertently filed the first draft of my Rule 56. 1 Statements of Facts on April 17, 2023. The first draft was visually formatted, in two side by side columns which was cumbersome to type. Plaintiff duplicated this document and re- formatted the design, in a traditional, reading left to right style, with numbered declarations and referenced exhibits.

On or around the week before the Summary Judgemen due date, the Plaintiff’s business center printer was out of service during the Passover holiday. The out of service printer prompted the Plaintiff to write to the Court to request an extension. On April 17, 2023, which was the new Court filing due date, the same printer went out of service. Later that day, the scanner was not working. These two printer malfunctions adversely effected Plaintiff schedule and ability to submit my Summary Judgement documents to the Court. Plaintiff’s documents were filed in haste and as a result, Plaintiff filed the wrong Rule 56.1 Statement sof Facts with the Court,

Plaintiff notes on April 17, 2023 I submitted seventeen filings beginning with ECF 429, 430,431, 432, 433,435, 437, 438, 439, 440, 441, 442, 443, 444, 445, 447 and 448.

Plaintiff brings to the Courts attention ECF 451 entitled “ Plaintiff Request for a One Week Reprieve Filed on April 21, 2023 due to exhaustion.

Plaintiff brings to the Court’s attention Proof od Repair Service to the Printer in the Monterey Business Center on April 17, 2023. **Attached Below is Exhibits #1**



EXHIBIT #1

April 20th, 2023

Re: Annamarie Trombetta
175 East 96th Street, Apt 12R
New York, NY 10128

To Whom It May Concern,

On April 17th, 2023, there was a repair man who came in and serviced the printers in our business center.

If you may have any questions or concerns, please feel free to contact me.

Sincerely,
Ermina Cirikovic



Compliance Specialist

T: 212-510-6503

F: 607-354-3243

erminac@montereynyc.com

PLAINTIFF’S RULE 56.1 STATEMENT OF UNDISPUTED MATERIAL FACTS IN SUPPORT OF PRO SE PLAINTIFF’S MOTION FOR SUMMARY JUDGMENT.

TO THE HONORABLE COURT, ALL PARTIES, AND COUNSEL OF RECORD: PLEASE TAKE NOTICE THAT, pursuant to Rule 56.1 of the Local Civil Rules of the Southern District of New York, Pro Se Plaintiff Annamarie Trombetta respectfully submits this Statement of Material Facts in Support of his Motion for Summary Judgment.

UNCONTROVERTED FACTS

FACT NO. 1

1. Artist, Annamarie Trombetta known professionally as a “realist artist ” created a self authored biography for my artist’s personal catalog and artist website in 2003 in New York City. The self authored personal biography (“Subject Infringed the Self Authored Biography”). which contained irrefutable, personal, self identifying information to artist Annamarie Trombetta, as the one and only true author, of the artist’s personal life experiences , (birthplace) travels, education and professional colleagues and friends.

BASIS

Declaration ¶¶ 4 of Plaintiff Annamarie Trombetta (Exhibits 5,6,7 8, 9, 10 and 11) catalog and artist website.

FACT NO. 2

2. Plaintiff /artist Annamarie Trombetta created the “Infringed Subject” which is my Personal Biography. As an original work of art , Plaintiff registered y Biography and Plaintiff’s Personal Artist ’s website with the Copyright Office, receiving an approved registration number TX-8-655-807. At all relevant times, Plaintiff, Annamarie Trombetta owned all copyrights and had a copyright sign and notice on her artist’s website since 2003, which states “ *All work on this site are ©Annamarie Trombetta. All rights reserved* ” .

BASIS FOR NO. 2

Declaration ¶¶ 4 of Plaintiff Annamarie Trombetta

(Ex. 6 Plaintiff’s Biography Catalog P. 1 (Pl. Evid. 000086)
(Ex. 7 Plaintiff’s Biography Catalog P 2 Pl.Evid.000087
(Ex.11 Plaintiff’s Website Biography Pl Evid. 000124)

Declaration ¶¶ 9 of Annamarie Trombetta

Ex. 22 Copyright Registration Number TX-8-655-807 (Pl. Evid. 000118)

(Plaintiff Evidence 000511 Copyright Act of 1976)

FACT NO. 3

3. Defendants, Estate Auctions Inc and Norb and Marie Novocin, the latter, two of which own or owned EAI and will be referred to as the “Individual Defendants” herein, copied and exploited Annamarie Trombetta’s personal, self authored original biography in advertising and marketing materials on eBay Auctions accounts, without the knowledge or consent of Plaintiff and without Plaintiff’s Copyright identification notice “*All work on this site are © Annamarie Trombetta. All rights reserved*”. Plaintiff is the author and owner of the Subject Plaintiff’s Copyrighted Personal Biography. The copyright infringement was used for commercial and

financial gain to sell a damaged oil painting dated 1972. The unauthorized infringement was used to falsely attribute Plaintiff/Artist Annamarie Trombetta as the artist that created/painted this large oil painting which was torn and sold for \$181.50 which depreciates Plaintiff's current market value.

BASIS FOR NO. 3

Declaration ¶¶ 4 of Plaintiff Annamarie Trombetta

(Ex# 11 Plaintiff's Website Biography Pl.Evid 124 © *Annamarie Trombetta. All rights reserved*" CMI)

Declaration ¶¶ 5 of Plaintiff Annamarie Trombetta

(Ex. 12 WP Website 1972 eBay ad Pl Evid. 000144)

(Ex.13 WP Code Pl. Evid.000169)

(Ex.14 Pl Evid. 000158-157-159) 3 pages ad of text and signature

(Ex.15 "A.Trombetta Signature" Pl Evid. 000160

Declaration ¶¶ 9 of Plaintiff Annamarie Trombetta

(Ex. 22 Copyright Registration)

Declaration ¶¶ 34 of Plaintiff Annamarie Trombetta

(Ex.#46 WorthPoint webpage 1972 oil \$181.50 Pl Evid 000145)

FACT NO. 4

4. Defendant EAI Norb and Marie Novocin, exploited the Plaintiff's Personal Biography as part of an online display and alleged sale on eBay for an oil painting in 2012. Plaintiff and her colleagues found the eBay ad in August 2015. One month earlier, for the first time, Plaintiff signed into eBay's website on or around June 2015. A few weeks after Plaintiff signed onto eBay's website, listed under my name was a false 1972, incorrect attribution with my self authored biography that was truncated and was preceded with Estate Auctions Inc. 's

company description. Plaintiff's biography was altered mid sentence with three dots added inferring the sentence and biography continued . Plaintiff's CMI from my website was removed.

BASIS FOR NO. 4

Declaration ¶¶ 5 of Plaintiff Annamarie Trombetta

(Ex.14 Pl Ev. 000158-157-159)

Declaration ¶¶ 7 of Plaintiff Annamarie Trombetta

Ex. 20 Letter Alex Raspa False 1972 eBay ad Mistakes

Plaintiff's Evid 000573 eBay

Plaintiff's Evid 000574 eBay

Declaration ¶¶ 11

Plaintiff Annamarie Trombetta Ex. 13

FACT NO. 5

5. The EAI eBay 1972 oil painting ad with Plaintiff's copyright biography falsely claims

Plaintiff is the artist, which I am not. The EAI eBay 1972 oil painting ad, falsely stated EAI took my biography from askART. The oil painting was allegedly sold in 2012. Plaintiff gave my consent to have my biography listed on askART in 2015 to author. Bob Bahr. Mr. Novocin falsely stated I am the artist who painted the 1972 painting which I did NOT. Norb Novocin claims he took my Biography from askART which Plaintiff's proof can refute. Norb Novocin. states he has been a member of askART. since November 2001.

BASIS FOR NO. 5

Declaration ¶¶ 11 of Plaintiff Annamarie Trombetta

Ex. 23 March 5, 2015 email to Mr. Bahr Pl. End. 000151

Ex. 24 June 6, 2015 email to Mr. Bahr Pl. End. 000150

Declaration ¶¶ 12 of Plaintiff Annamarie Trombetta

Ex. 25 Way Back Machine

Ex. 26 Wayback Machine

Norb Novocin Phone Call

FACT NO. 6

6. There is no dispute that Defendants have created infringing derivative works from the Plaintiff's Self Authored Biography. ("Subject Infringed Self Authored Biography").

BASIS FOR NO. 6

Declaration Plaintiff Annamarie Trombetta ¶¶ 29

Exhibit 41 9 Ex. 41

FACT NO. 7

7. There is no dispute that both Defendants have failed to produced the 12 photos of the oil painting listed and documented in the online eBay ad for the 1972 Original Oil Painting entitled "Man With Red Umbrella"

FACT NO. 8

8. There is no dispute that WorthPoint Corporation ie Defendants have failed to produce the requested Customer Support Ticket Entries with No. Ticket No. 57565 RE Fraudulent artwork dated Feb. 1, 2016 and the first request dated Jan. 22, 2026 for Ticket No. 56607 RE WorthPoint Price Guide Membership subscription and Plaintiff's request to remove false 1972 post.

BASIS FOR NO. 8

Declaration Plaintiff Annamarie Trombetta ¶ 29

Exhibit 41

FACT NO. 9

9. After Plaintiff's initial notice of infringement in 2016, WorthPoint took no steps to ensure that it wouldn't happen again.

BASIS FOR NO. 9

Declaration Plaintiff Annamarie Trombetta 19 ¶

Ex. 30

Declaration Plaintiff Annamarie Trombetta 23¶

Ex. 33

FACT NO. 10

10. There is no dispute that Plaintiff in 2016 contacted WorthPoint by phone. In 2016 on Jan. 22, 2016. Plaintiff spoke to Anita Brooks by phone and also sent emails to WorthPoint.

BASIS FOR NO. 10

Declaration Plaintiff Annamarie Trombetta ¶¶19

Exhibit 30

FACT NO. 11

11. There is no dispute that Plaintiff contacted WorthPoint on Feb. 3, 2016 and spoke to Gregory Watkins by phone and sent emails to WorthPoint.

BASIS FOR NO. 11

Declaration Plaintiff Trombetta Annamarie ¶¶ 20

Ex. 31 Transcript

FACT NO. 12

12 . There is no dispute that Will Seippel of WorthPoint Corp. responded to Plaintiff first email on February 20, 2016 and wrote “we will remove the post”.

BASIS FOR NO. 12

Declaration Plaintiff Annamarie Trombetta ¶¶ 21

Ex. 32 WP000135

FACT NO. 13

13. There is no dispute that the Second Defendants, WorthPoint Corp. published the 1972 post, evidenced in the January 4, 2017 emails in WP000132, WP000133, WP000134 for the 1972 oil painting URL on WorthPoint’s website.

BASIS FOR NO. 13

Declaration Plaintiff Annamarie Trombetta ¶¶ 23

Exhibit 33

FACT NO. 14

14. The 1972 oil and infringing eBay ad was an important way to have people visit their site and purchase WorthPoint’s Membership from Defendants’ online business . Both companies benefited on the basis of its marketing efforts, which took place solely online.

BASIS FOR NO. 14

Declaration Plaintiff Annamarie Trombetta ¶¶ 5

Ex. 14

FACT NO. 15

15. WorthPoint advertises sale items because it “want[s] people to come to their site and purchase the WorthPoint Membership.

Declaration Plaintiff Annamarie Trombetta ¶¶ 5

Ex. 13

FACT NO. 16

16. There is no dispute that the signature A. Trombetta, on the front of the 1972 Original Oil Painting entitled Man With Red Umbrella is not the Plaintiff’s signature.

Declaration Plaintiff Annamarie Trombetta ¶¶ 34

Ex. 47

FACT NO. 17

17. There is no dispute that the signature in red pencil on back stretcher bar of the 1972 Original Oil Painting entitled Man With Red is not the Plaintiff’s signature.

Declaration Plaintiff Annamarie Trombetta ¶¶ 3 of

Ex. 45 46

FACT NO. 18

18. There is no dispute that the Plaintiff is not the artist who painted the 1972 Original Oil Painting entitled Man With Red Umbrella.

Declaration Plaintiff Annamarie Trombetta ¶¶ 32

Ex. 43, 44

Ex. 2

In The United States District Court For Southern District of New York

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Plaintiff,
vs.

Civil Action No. 18-cv-0993-RA-HBP

Norb Novocin, Marie Novocin,
Estate Auctions Inc.
and
WorthPoint Corporation

Defendants

CERTIFICATE OF SERVICE

I certify that on June 29, 2023 , a true and correct copy of the foregoing document was served upon the parties of record via the Court's CM/ECF system and directly to all attorneys listed below to include Adam Bialek, Jana Farmer and John Cahill attorneys for WorthPoint Corporation and attorney Anderson Duff representing Marie and Norb Novocin and Estate Auctions Inc.

Dated: New York, New York April 17, 2023 and Corrected June 29, 2023

Submitted by

Annamarie Trombetta
175 East 96th Street (12 R)
New York. New York 10128

——Electronic Signature ——

/s/ Annamarie Trombetta April 17, 2023 and June 29, 2023

Pro Se Plaintiff

Annamarie Trombetta Pro Se Plaintiff

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